

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Ronald C. Albright, Richard E. Blackburn, Tom)	C.A. No.: 2:00-03215-RBH
Clark, Kather Gray, Herbert Hightower, Willie)	
Johnson, Jerry N. Pruitt, James R. Pryor, Allen K.)	
Richardson, Basil Akbar, Russell Cain, Lucius)	
Drafts, Harry J. Sanders, Patrick Underwood,)	
Tommy Warner, Andrew Weber, Gary Childers,)	
Thomas Wyatt, Cecil Bowser, William S. Cohen,)	
Sean Gordon, Phinzy William Heyward, George E.)	
Brown, Jerry Johnson, Toryast Johnson, Gary)	
Moffatt, Antonio Sanders, Dallas Saucer, Douglas G.))	
Smith, James A. Edwards, Kelvin G. Cooper, Willie))	
Mayers, Douglas C. O'Neal, Hervey Beckham,)	
)	
Plaintiffs,)	
)	
vs.)	ORDER
)	
State of South Carolina, et al.,)	
)	
Defendants.)	
)	
)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Robert S. Carr, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made,

and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

On July 2, 2008, the defendants filed a motion for summary judgment [docket entry #499]. By Order of this court filed July 3, 2008 [docket entry #500], the plaintiffs were advised of dismissal and summary judgment procedures and the possible consequences if they failed to respond adequately. Since the plaintiffs are proceeding *pro se*, the court filed an second order [docket entry #525] on August 19, 2008, giving non-responding plaintiffs ten (10) days in which to file a response to the defendants' motion for summary judgment. These plaintiffs were specifically advised if they failed to respond, this action would be dismissed as to them with prejudice for failure to prosecute. The Report and Recommendation [docket entry #553] indicated that the following plaintiffs had not responded to the defendants' [docket entry # 499] motion for summary judgment.

Ronald C Albright
Kather Gray
Herbert Hightower
Willie Johnson
Jerry N. Pruitt
James R. Pryor
Allen K. Richardson
Russell Cain
Harry J. Sanders
Patrick Underwood
Tommy Warner
Andrew Weber
George E. Brown
Gary Childers
Thomas Wyatt
Cecil Bowser
William S. Cohen
Sean Gordon
Phinzy William Heyward
Toryast Johnson
Gary Moffatt

Antonio Sanders
Dallas Saucer
Douglas G. Smith
James A. Edwards
Kelvin G. Cooper
Willie Mayers
Douglas C. O'Neal
Hervey Beckham

A response to the [docket entry #499] motion for summary judgment was subsequently filed by plaintiff George E. Brown [docket entry #558] on December 4, 2008. Kather Gray also filed a document [docket entry #559] indicating that he would like to continue to prosecute the case on December 10, 2008. Plaintiff Willie Johnson filed a [565] motion for extension of time to respond to the [553] Report and Recommendation. This motion is being granted.

Therefore, the Court is not dismissing this action at this time by plaintiffs George E. Brown, Kather Gray and Willie Johnson for failure to prosecute.

The plaintiffs named below filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Ronald C Albright
Herbert Hightower
Jerry N. Pruitt
James R. Pryor
Allen K. Richardson
Russell Cain
Harry J. Sanders
Patrick Underwood
Tommy Warner
Andrew Weber
Gary Childers
Thomas Wyatt

Cecil Bowser
William S. Cohen
Sean Gordon
Phinzy William Heyward
Toryast Johnson
Gary Moffatt
Antonio Sanders
Dallas Saucer
Douglas G. Smith
James A. Edwards
Kelvin G. Cooper
Willie Mayers
Douglas C. O'Neal
Hervey Beckham

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Carr's Report and Recommendation, except as to plaintiffs George E. Brown, Kather Gray, and Willie Johnson, and incorporates it herein. It is therefore

ORDERED that this action is dismissed with prejudice as to the following specific plaintiffs listed below for lack of prosecution and failure to respond to the Order of this Court.

Ronald C Albright
Herbert Hightower
Jerry N. Pruitt
James R. Pryor
Allen K. Richardson
Russell Cain
Harry J. Sanders
Patrick Underwood
Tommy Warner
Andrew Weber
Gary Childers
Thomas Wyatt
Cecil Bowser
William S. Cohen
Sean Gordon
Phinzy William Heyward
Toryast Johnson
Gary Moffatt

Antonio Sanders
Dallas Saucer
Douglas G. Smith
James A. Edwards
Kelvin G. Cooper
Willie Mayers
Douglas C. O'Neal
Hervey Beckham

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. BRYAN HARWELL
United States District Judge

Florence, South Carolina
December 22, 2008